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BEFORE THE ARIZONA CORPORATION COMMISSION

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AZ CORP COMMISSION  
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IN THE MATTER OF ILEC UNBUNDLING  
OBLIGATIONS AS A RESULT OF THE  
FEDERAL TRIENNIAL REVIEW ORDER

Docket No.T-00000A-03-0369

**COMMENTS OF MOUNTAIN TELECOMMUNICATIONS, INC.  
IN RESPONSE TO PROCEDURAL ORDER**

Mountain Telecommunications, Inc. ("MTI"), by its attorneys, hereby submits its comments in response to Administrative Dwight D. Nodes's June 24, 2003 Procedural Order in this proceeding:

MTI is a telecommunications carrier certificated by the Commission to provide services, including competitive local exchange services, in the State of Arizona. MTI is incorporated under the laws of the State of Arizona, and its corporate headquarters are located at 1430 W. Broadway, Suite A-200, Tempe, Arizona 85282. On June 27, 2003, MTI filed an application to intervene in this proceeding.

Pursuant to Judge Nodes's Procedural Order, comments on the questions propounded in that order were due twenty days following release of the Federal

Communications Commission's "Triennial Review Order."<sup>1</sup> Accordingly, comments on those questions were due September 10, 2003. The reason for the expedited comment schedule was to accommodate the FCC requirement that state commissions must rebut the FCC's presumptive finding of no impairment with respect to switching for high capacity loops within 90 days. MTI has no position as to whether or not that national presumption should be rebutted by the Commission and does not plan to participate in the 90-day proceeding. MTI does have a profound interest in whether or not economic and operational impairment exists with respect to other unbundled network elements, primarily unbundled transport and it plans to participate actively in that proceeding. Those determinations are to be made within the nine month period established by the FCC. Because MTI plans to participate in the nine month proceeding but not the 90-day proceeding, it does not believe that any parties' interests or the Commission's resolution of the questions set forth in the Procedural Order will be adversely affected by the submission of these comments several days after the aforementioned twenty day period.<sup>2</sup>

Due to the limited scope of MTI's interests, its comments herein will only address those designated questions applicable to its planned participation in the nine month portion of this proceeding.

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<sup>1</sup> Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, et al (Report and Order and Order on Remand and Further Notice of Proposed Rulemaking), FCC 03-36, released August 21, 2003.

<sup>2</sup> The rules established by the FCC will not become effective until October 2, 2003, following publication in the Federal Register and approval of the United States Office of Management and Budget.

**8. Should the Commission address all of the issues relating to the 90 day and nine month proceedings within this docket?**

There is no reason why the issues relating to the 90-day and the nine month FCC requirements cannot and should not be addressed in this docket. However, MTI recommends that they be addressed in separate phases of that docket and that the Commission should not attempt to address them in a simultaneous manner. Further, there is no reason why the issues in both phases need to be subject to the same procedures. The Commission enjoys discretion as to how to conduct its proceedings. The more limited nature of the issues in the 90-day impairment proceeding regarding high capacity switching may be more conducive to streamlined procedures such as “paper proceedings” than are the issues which will be before the Commission in the UNE granular analysis.

**9. Should the Commission use the same process you identified in response to Question No. 4 in both the 90-day and nine month proceedings?**

As noted above, MTI has not addressed Question No. 4 because it does not plan to participate in the 90-day proceeding. However, as it has indicated in its response to Question No. 8, MTI believes that the granular analysis as to whether economic and operational impairment exists for particular unbundled network elements in specific Arizona markets will require substantial discovery and the opportunity to cross-examine witnesses. Accordingly, it strongly recommends that contested case procedures be utilized in that portion of the proceeding. MTI also recognizes that 9 months from the effective date of the Triennial Review Order will require the Commission to complete the proceeding by July 2, 2004. Therefore it will be necessary to establish an expedited procedural schedule and to demand that all parties adhere to that schedule.

**10. Please indicate in which of the proceedings you plan to actively participate.**

As described above, MTI intends to participate in the nine month proceeding, but not the 90-day proceeding.

Respectfully submitted,

**MOUNTAIN TELECOMMUNICATIONS, INC.**

A handwritten signature in black ink, appearing to read 'M. Brecher', is written over a horizontal line.

Mitchell F. Brecher

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*Its Attorneys*

September 12, 2003

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing Comments of Mountain Telecommunications, Inc. in Response to Procedural Order on all parties of record in this proceeding by mailing a copy thereof, properly addressed with first class postage prepaid on the following:

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Dated at Washington, D.C. this 12<sup>th</sup> day of September 2003.

  
Michelle D. Diedrick

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